IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 766/1998

RAMESHWAR Vs. STATE OF RAJASTHAN & ORS.

DATE: 05.02.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. G.C. Chaterjee for the petitioner.
Mr. Jainendra Jain, PP for the State.
Mr. R.K. Daga for the respondents.

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The present revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the order dated 12.10.98 passed by the District & Sessions Judge, Jaipur District, Jaipur in Sessions Case No. 350/97- State of Rajasthan Vs. Ramanand & Ors., rejecting the application of the petitioner dated 04.02.98 for taking cognizance and framing charges under Section 302/34 r/w Section 301 IPC against the respondents.

Brief facts of the case are that on 12.06.96 a complaint was lodged by one Shri Giriraj Prasad S/o Badri Narain, R/o- Doda Chord, P.S. Bassi, District Jaipur against Ramanand and 15 others in the Court of Civil Judge (JD) & Judicial Magistrate, Bassi, which was forwarded by the learned Magistrate to P.S. Bassi under Section 156(3) Cr.P.C. for investigation and the

same was registered as FIR No. 351/96 under Sections 148, 149, 323, 341 and 308 IPC. After investigation, the police filed F.R. No. 119 dated 28.07.96 in the case holding the incident not to have occurred. However, on directions of the D.G. Crimes and Vigilance the investigation was reopened by the CID (CB) and the site of the incident was re-examined in the presence of the complainant. In due course, challan was filed under Sections 323, 341 and 160 against Kalyan, Bhagwana and Suji Lal. Thereafter an application dated 04.02.98 was filed by the petitioner with the request that charges under Section 302, 302/149 IPC may be framed against the accused persons and while rejecting the application filed on behalf of the petitioner, the District & Sessions Judge, Jaipur District, Jaipur vide its impugned order dated 12.10.98 has held that cognizance in the present matter has been taken by the Court on the complaint filed by the complainant and with regard to the death of Rameshwar S/o Laxminarain trial of separate sessions case is in progress and that can only be decided in that case. Therefore, the application of the petitioner has not been entertained and the cognizance which has been taken under Sections 341, 323 and 160 IPC has rightly been taken.

I have considered the rival submissions of the respective parties and carefully perused the record as

well as the impugned order.

If the petitioner is able to establish his case during trial by adducing evidence, the Court is competent to take cognizance. The petitioner is at liberty to represent his case before the trial Court and the trial Court is expected to consider the same in accordance with the provisions of law, but in any case, at this stage, I do not want to interfere in the impugned order dated 12.10.98 passed by the District & Sessions Judge, Jaipur District, Jaipur as I find no illegality or error apparent on the face of the record in the impugned order.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

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